

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION

CEDRIC LAVON JAMES, #2165296                   §  
VS.   §                   CIVIL ACTION NO. 2:19cv144  
DIRECTOR, TDCJ-CID                           §

ORDER OF DISMISSAL

Petitioner Cedric Lavon James, a prisoner within the Texas Department of Criminal Justice proceeding *pro se*, filed this federal petition for a writ of habeas corpus challenging a Harrison County conviction. The petition was referred to United States Magistrate Judge Roy S. Payne for findings of fact, conclusions of law, and recommendations for the disposition of the petition.

On August 1, 2022, Judge Payne issued a Report, (Dkt. #26), recommending that Petitioner's unexhausted claims be dismissed, without prejudice, and that his exhausted claims be dismissed with prejudice. Judge Payne further recommended that Petitioner be denied a certificate of appealability *sua sponte*. A copy of this Report was sent to Petitioner. To date, however, Petitioner has neither filed objections nor communicated with the Court since December 2021, (Dkt. #25).

Because objections to Judge Payne's Report have not been filed, Petitioner is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243

(1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). Accordingly, it is

**ORDERED** that the Report of the United States Magistrate Judge, (Dkt. #26), is **ADOPTED** as the opinion of the Court. Further, it is

**ORDERED** that Petitioner's habeas petition is **DISMISSED** as follows: Petitioner's unexhausted claims are dismissed, without prejudice, and his exhausted claims are dismissed with prejudice. Petitioner is further **DENIED** a certificate of appealability *sua sponte*. Finally, it is

**ORDERED** that any and all motions which may be pending in this civil action are hereby **DENIED**.

**So Ordered this**

**Sep 9, 2022**

  
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RODNEY GILSTRAP  
UNITED STATES DISTRICT JUDGE